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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re Google Play Store Antitrust Litigation

CASE NO. 21-md-02981-JD

This document relates to:

Epic Games, Inc. v. Google LLC, et al.,
Case No. 3:20-cv-05671-JD

**DECLARATION OF JASON C. LO IN
SUPPORT OF NON-PARTY APPLE INC.'S
POST-TRIAL MOTION TO SEAL
PORTIONS OF TRIAL EXHIBITS 1492,
1493, AND 6190**

Pursuant to Civil Local Rule 79-5, I, Jason C. Lo, hereby declare as follows:

1. I am an attorney licensed to practice in the State of California, and a member of the Bar of this Court. I am a partner at the law firm Gibson, Dunn & Crutcher LLP, counsel of record for non-party Apple Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of proprietary and highly confidential information, based on my personal experience representing Apple. I have personal knowledge of the facts stated below, and if called as a witness, I could and would testify competently thereto.¹

2. Apple operates in an intensely competitive marketplace. It occupies a unique position as a leader with respect to a number of highly dynamic technologies. Apple has serious and legitimate concerns that competitors will exploit any release of Apple’s highly sensitive, confidential information in order to gain competitive advantage. As such, in the regular course of conducting its business, Apple takes extensive measures to protect the confidentiality of its sensitive business information.

Attached Documents

3. I understand the parties, Epic Games, Inc. (“Epic”) and Google LLC (“Google”), intend to electronically file all admitted exhibits in the above-captioned matter pursuant to Local Rule 5-1(g).

4. Attached hereto and filed under seal as **Exhibit A** is a true and correct copy of admitted Trial Exhibit 1492, which is an executed copy of the 2016 Amendment to the Information Services Agreement between Apple and Google (the “2016 ISA”), a currently operative business agreement concerning internet search (not relating to app stores) that Apple has entered into after exacting negotiations.

5. Attached hereto and filed under seal as **Exhibit B** is a true and correct copy of admitted Trial Exhibit 1493.

¹ Courts in this District routinely grant motions to seal on the basis of declarations of counsel submitted pursuant to Local Rule 79-5. *See, e.g., DZ Reserve v. Meta Platforms, Inc.*, No. 18-cv-04978, Dkt. 350 (N.D. Cal. Dec. 3, 2021); *Epic Games, Inc. v. Apple Inc.*, No. 20-cv-05640, Dkt. 609 (N.D. Cal. May 7, 2021) (“*Epic v. Apple*”); *Epic v. Apple*, Dkt. 613 (N.D. Cal. May 9, 2021); *Epic v. Apple*, Dkt. 614 (N.D. Cal. May 9, 2021); *Epic v. Apple*, Dkt. 643 (N.D. Cal. May 12, 2021); *Epic v. Apple*, Dkt. 715 (N.D. Cal. May 20, 2021); *Epic v. Apple*, Dkt. 794 (N.D. Cal. June 9, 2021); *Avago Techs. U.S. Inc., et al. v. Iptronics Inc., et al.*, No. 10-cv-02863, Dkt. 545 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc., et al. v. Opentv Inc., et al.*, No. 13-cv-00282, Dkts. 81-83 (N.D. Cal. Oct. 8, 2018). I am personally familiar with Apple’s safeguarding of confidential information, but if the Court deems this declaration insufficient, Apple respectfully requests that it be permitted to file a further declaration in support of sealing.

6. Attached hereto and filed under seal as **Exhibit C** is a true and correct copy of admitted Trial Exhibit 6190.

7. **Exhibits B** and **C** are internal Google documents discussing confidential agreements, negotiations, and discussions with Apple, also bearing no relevance to app stores.

8. Apple has highlighted portions of these documents for which it requests sealing. The requested sealing is consistent with this Court's instructions and agreements reached with the parties. Dec. 11, 2023 Trial Tr. 3299:13-3300:06; Nov. 20, 2023 Trial Tr. at 1871:18-1873:24.

Apple Confidential Information

9. Apple seeks to seal confidential information in **Exhibit A, B, and C**.

10. On November 15, 2023, I met and conferred with counsel for Epic Games, Inc. regarding Exhibit 1492. In this meet and confer, Epic represented that only certain excerpts of Exhibit 1492 would be read aloud and publicly displayed in court. In this meet and confer, Epic represented that Google had agreed to this proposal. Apple agreed to Epic's proposal based on these representations, and this joint agreement was then conveyed to the Court. *See* Nov. 20, 2023 Trial Tr. 1871:18-1872:8, 1873:19-23.

11. On information and belief, I understand that Google does not oppose Apple's post-trial motion to seal and Epic has represented that it may oppose the motion. On further information and belief, I understand that the parties will provisionally file Exhibits 1492, 1493, and 6190 with redactions as indicated by the highlighting in Exhibits A, B, and C.

12. Subject to Local Rule 79-5(c)(1), below is a chart detailing the specific items of Apple's information that are sealable for the reasons explained herein:

Exhibit Number (Trial Exhibit No.)	Description or Pages & Lines	Reason for Redaction
Trial Exhibit 1492 (GOOG-PLAY2-000455423, Ex. A to this declaration)	2016 Amendment to the Information Services Agreement between Apple and Google <ul style="list-style-type: none"> GOOG-PLAY2-000455423 description of permissible uses under "(a) Safari (Web Browser Software)"; GOOG-PLAY2-000455423 definition of term following "Default"; 	<u>Apple sealing request:</u> This document should be partially sealed because it contains Apple's competitively sensitive information which if revealed would put Apple at a competitive

Exhibit Number (Trial Exhibit No.)	Description or Pages & Lines	Reason for Redaction
	<ul style="list-style-type: none"> • -GOOG-PLAY2-000455429 information in the paragraph continued from previous (not excerpted) page; • GOOG-PLAY2-000455429 information in the paragraph following “Annual CEO-Check-In”; • GOOG-PLAY2-000455429-GOOG-PLAY2-000455430 information under “6. Limitation of Liability”; as highlighted (Decl. Ex. A).	disadvantage in the marketplace and could be unfairly leveraged in future negotiations by Apple’s business partners other than Google. None of this information is relevant to this action, nor was any of it discussed in trial testimony.
Trial Exhibit 1493 (GOOG-PLAY-007036302, Ex. B to this declaration)	<p>Internal Briefing re: Apple Partnership Strategy</p> <ul style="list-style-type: none"> • GOOG-PLAY-007036303 information related to the bullet “Messaging Interoperability”; • GOOG-PLAY-007036304 information in the sub-bullet under “GCP Commitment”; • GOOG-PLAY-007036305 information in row 1 of the Relationship Map related to “Comms”; • GOOG-PLAY-007036305 information in row 1 of the Relationship Map related to “Ads (GCAS)”; • GOOG-PLAY-007036305 information in row 5 of the Relationship Map related to “Corp Eng”; • GOOG-PLAY-007036305 information in row 6 of the Relationship Map related to “Cloud”; • GOOG-PLAY-007036305 information in row 1 of the Relationship Map related to “Comms”; as highlighted (Decl. Ex. B)	<p>Apple sealing request: This document should be partially sealed because it contains Apple’s competitively sensitive information which if revealed would put Apple at a competitive disadvantage in the marketplace and could be unfairly leveraged in future negotiations by Apple’s business partners other than Google. None of this information is relevant to this action, nor was any of it discussed in trial testimony.</p>
Trial Exhibit 6190 (GOOG-PLAY-0081462814.R, Ex. C to this declaration)	<p>December 20, 2018 Email</p> <ul style="list-style-type: none"> • GOOG-PLAY-008146282.R information in the first paragraph (continuing from previous page) in the last full line after the word “underperform” and before the words “on iPad”; • GOOG-PLAY-008146282.R at the seventh bullet under the “Notes” section immediately before “Safari suggestions” as highlighted (Decl. Ex. C)	<p>Apple sealing request: This document should be partially sealed because it contains Apple’s competitively sensitive information which if revealed would put Apple at a competitive disadvantage in the marketplace and could be unfairly leveraged in future negotiations by Apple’s business partners other than Google. None of this information is relevant to this action, nor was</p>

Exhibit Number (Trial Exhibit No.)	Description or Pages & Lines	Reason for Redaction
		any of it discussed in trial testimony.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed on December 21, 2023 in Los Angeles, California.

/s/ Jason C. Lo

Jason C. Lo